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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of:)	
)	Reply Reference # 1800B3-GDG
Tolling/Extension Request for KRZB (FM))	MM Docket No. 98-43
Construction Permit pursuant)	FCC 98-281; FCC 99-267
to tolling provisions under)	KRZB (FM), Archer City, TX
47 C. F. R. 73.3598(b)(i) and (ii))	Facility # 79024
or other applicable Commission)	File # BMPH-19990217IB
rules, memorandum, precedent,)	
report and order or practice)	

To: The FCC Chairman and Commissioners

EMERGENCY APPLICATION FOR REVIEW

OF DENIAL BY AUDIO SERVICES CHIEF

OF KRZB/ARCHER CITY, TEXAS'

"EMERGENCY MOTION FOR STAY OF TOLLING REQUEST DENIAL AND IMMEDIATE

INSTITUTION OF TOLLING EFFECTIVE ON THE DATE OF ORDER"

TO ALLOW PERMITTEE APPROPRIATE LEGAL RIGHT

TO SEEK REDRESS WITHOUT PENALTY.

Pursuant to applicable Commission Rules, Texas Grace Communications ("Texas Grace"), proprietor/permittee of station KRZB (FM)/Archer City, Texas, hereby respectfully submits the following Emergency Application for Review¹ as captioned above, seeking immediate reversal of the prejudicial December 14, 2000 dismissal, without explanation or any prudent consideration of the permittee's legal rights, of Texas Grace's timely filed "Emergency Motion for Stay of Tolling Request Denial and

¹This Emergency Application for Review is filed in conjunction with and on the same date as Texas Grace's "Application for Review Before FCC Chairman and Commissioners of Audio Services Chief's Dismissal of Texas Grace Communications' "Petition for Reconsideration" to Grant Legitimate Tolling/Extension Time on KRZB/Archer City, TX Construction Permit" (incorporated by reference).

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Immediate Institution of Tolling Effective on the Date of Order (October 20, 2000)” (incorporated herein by reference, and file stamped accepted by the Commission on November 20, 2000). This Application for Review therefore correctly seeks to Stay the effectiveness of Audio Services Chief Blair’s (hereinafter “Blair”) Order of October 20, 2000 (incorporated by reference), wherein Blair denied the legitimate Tolling Request (incorporated by reference) for the KRZB construction permit as had been filed timely by the permittee over 19 months earlier---prejudicially leaving Texas Grace with barely more than 3 months’ construction time remaining upon receipt of this unexpected denial, and obviously no time or means to seek legal redress without sustaining the unfair penalty of Permit cancellation.

Through such emergency reversal of the inappropriately denied November 20, 2000 Emergency Motion for Stay, Texas Grace respectfully prevails upon the Commissioners to please urgently do the following:

(A) Stop the expiration timeclock effective October 20, 2000 on KRZB/Archer City’s Construction Permit--a Permit for a wholly new radio service at a community which presently has no local broadcast station originating from either its boundaries or those of its county--which was first issued February 7, 2000, but inappropriately given an only 1-year lifespan for construction in defiance by Blair of Commission rules, citings, and Orders;

(B) Order Bureau Chief Blair to institute and maintain the Stay effective October 20, 2000, which marks the tardy date upon which Blair finally answered Texas Grace’s Tolling Request of March 5, 1999, so as to accord the permittee the right to seek all legal redress through the Commission and U.S. District Court, towards securing the appropriate lifespan on the Permit, without penalty of cancellation of Texas Grace’s Permit or harm to the permittee’s livelihood while seeking such redress.

In support thereof, Texas Grace states as follows:

Texas Grace notes that the element of time when dealing with the lifespan of a construction permit is crucial. Certainly, Texas Grace had to comply with a strict response window timeframe in making its request for tolling².

²Texas Grace timely filed its tolling request on March 5, 1999, which was file-stamped as accepted by the Commission on March 8, 1999, based upon directive of the Audio Services Chief in a letter dated February 16, 1999.

There is simply no excuse for a lapse in time equating to over 19 months, between the time Texas Grace promptly followed Commission directive to tender its request for permit extension with supportive evidence citing qualifying encumbrances, on March 5, 1999, and the Chief's denial Order on October 20, 2000--incidentally, without explanation.

The element of time with regard to Blair's tardy response is irreparably injurious to Texas Grace and KRZB/Archer City, leaving Texas Grace with barely three months remaining for construction upon receipt of Blair's grossly delayed, unfair denial of permit extension time---and no means of seeking the avenues of legal redress to which any permittee should be entitled without the penalty of expiration of the Permit.

Texas Grace had full expectation of three (3) unencumbered years on its KRZB permit as a brand new service at Archer City, yet was granted only one year to develop such a service in contradiction to the Commission's rules, as noted among other encumbrances, inconsistencies and misapplications of law cited in its Petition for Reconsideration, and companion Application for Review filed on this date.

Understandably, twelve months from the initial time Texas Grace received its first valid permit permitting construction of KRZB's Archer City service (on February 7, 2000) was not quite enough time to complete all necessary facets of construction.

Indeed, at the time of the Blair's erroneous denial Order, Texas Grace was finalizing its decision as to which tower, transmitting equipment, and construction vendors to utilize following recent site inspections with emergency management and utility personnel, and its engineer. Despite being on the brink of construction, the shocking denial Order by Blair--delivered at the "eleventh hour"--clearly stopped Texas Grace in its tracks, interrupting KRZB's construction plan, as this permittee could not justify any further expenditure on a broadcast facility that simply could not be built in so finite a time.

Ironically Blair took longer to simply answer and deny Texas Grace's Tolling Request (over 19 months to reply!), than the 12 months inappropriately given KRZB/Archer City to build the broadcast facility, and again, prejudicially left the permittee with barely over 3 months remaining on the lifespan of the Permit upon receiving this news.

Texas Grace respectfully protested Blair's sitting on KRZB's timely filed tolling request for the over 19 month period, and--in its November 20, 2000 Emergency Motion for Stay--respectfully posed the question, "Why couldn't the Chief have replied to this permittee sooner?"

The Commissioners should please note that Blair refused to address or acknowledge her tardy misconduct, or the ramifications it had upon Texas Grace, in incorrectly issuing dismissal of the referenced Emergency Motion for Stay, thereby depriving Texas Grace right of legal redress without penalty.

Had Blair come back with a response in a more timely fashion, redress could have already been sought without interruption to KRZB's construction.


Indeed, the Commission's own *Streamlining Order* of February 16, 1999 indicates that a permit should be "tolled", and its expiration timeclock thereby frozen, in the event of an administrative or judicial "application for review" of an "extension grant" matter--clearly synonymous with the filing at hand, and its predecessor Emergency Motion to Stay.

For a permittee to have to wait more than 19 months for an answer on a time-sensitive tolling request--with the very life of its construction permit hanging in the balance--equates to a gross encumbrance which must not be held against the permittee. Such action by Blair plainly denies Texas Grace an opportunity to timely seek redress on preserving its construction permit, and to complete its planned facility construction.

KRZB therefore rightfully seeks a Stay of the effectiveness of Blair's Tolling Denial Order of October 20, 2000 (in tandem with reversal of Blair's December 14, 2000 dismissal of Texas Grace's Emergency Motion to Stay the Order). As prudent application of law, and to accommodate the right of the permittee to seek legal relief and redress without penalty of losing his livelihood, Texas Grace respectfully asks that the Commissioners ***please order Chief Blair to immediately freeze the timeclock ("institute tolling") on the KRZB/Archer City Permit effective the October 20, 2000 date***, which will appropriately allow Texas Grace to seek such legal redress through the Commissioners, and/or before the U.S. District Court, without the unfair penalty of Permit cancellation while seeking redress.

Respectfully Submitted,

Texas Grace Communications

By: _____

Dave Garey, Permittee

January 12, 2001

CERTIFICATION

I, Dave Garey, proprietor of Texas Grace Communications, and permittee of KRZB (FM) licensed to Archer City, Texas, do hereby verify that the statements contained in the instant document are true and correct to the best of my knowledge and belief. Although this submission is authored by Texas Grace's proprietor, John Trent remains legal counsel of record for Texas Grace Communications, and it is therefore respectfully requested that he be simultaneously served by the Commission or other interested parties with all relevant procedural or response documents.

Respectfully Submitted By:
Texas Grace Communications



Dave Garey, Permittee

January 12, 2001

Dave Garey
Texas Grace Communications
P.O. Box 398
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cc:

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